



Public Service Commission

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DATE: DECEMBER 3, 1998

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMMUNICATIONS (ISLER) *Pji* *MD*
DIVISION OF LEGAL SERVICES (WATTS) *CEW* *MB*

RE: CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES

- DOCKET NO. 981328-TC - MILLENNIUM CAPITAL MANAGEMENT, INC.
- DOCKET NO. 981329-TC - KEVIN L. SMITH D/B/A "MACARONI" UNISEX BARBER SHOP
- DOCKET NO. 981330-TC - ROBERT BROWNING
- DOCKET NO. 981331-TC - THOMAS M. FAZIO
- DOCKET NO. 981332-TC - KIMBERLY ANN BONA

AGENDA: 12/15/98 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981328.RCM

CASE BACKGROUND

1.) Docket #981328-TC - Millennium Capital Management, Inc. - This company obtained Certificate Number 4894 on August 10, 1996. On December 11, 1997, the Division of Administration sent the 1997 regulatory assessment fee (RAF) notice by certified mail. The United States Postal Service (USPS) returned the receipt which showed the notice was signed for and delivered on December 15, 1997. The Division of Administration notified staff by memorandum that this company did not pay its 1997 RAFs, plus statutory

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penalties and interest for the year 1997. As of November 23, 1998, the company has not paid the past due amount.

2.) Docket #981329-TC - Kevin L. Smith d/b/a "Macaroni" Unisex Barber Shop - This company obtained Certificate Number 4675 on July 24, 1996. On December 11, 1997, the Division of Administration sent the 1997 RAF notice by certified mail. The USPS returned the receipt which showed the notice was signed for and delivered on December 13, 1997. The Division of Administration notified staff by memorandum that this company did not pay its 1997 RAFs, plus statutory penalties and interest for the year 1997. As of November 23, 1998, the company has not paid the past due amount.

3.) Docket #981330-TC - Robert Browning - This company obtained Certificate Number 4634 on June 14, 1996. On December 11, 1997, the Division of Administration sent the 1997 RAF notice by certified mail. The USPS returned the receipt which showed the notice was signed for and delivered on December 13, 1997. The Division of Administration notified staff by memorandum that this company did not pay its 1997 RAFs, plus statutory penalties and interest for the years 1996 and 1997. As of November 23, 1998, the company has not paid the past due amount.

4.) Docket #981331-TC - Thomas M. Fazio - This company obtained Certificate Number 4627 on June 14, 1996. On December 11, 1997, the Division of Administration sent the 1997 RAF notice by certified mail. The USPS returned the receipt which showed the notice was signed for and delivered on December 13, 1997. The Division of Administration notified staff by memorandum that this company did not pay its 1996 and 1997 RAFs, plus statutory penalties and interest for the years 1996 and 1997. As of November 23, 1998, the company has not paid the past due amount.

5.) Docket #981332-TC - Kimberly Ann Bona - This company obtained Certificate Number 4623 on June 14, 1996. On December 11, 1997, the Division of Administration sent the 1997 RAF notice by certified mail. The USPS returned the receipt which showed the notice was signed for and delivered on December 15, 1997. The Division of Administration notified staff by memorandum that this company did not pay its 1996 and 1997 RAFs, plus statutory penalties and interest for the years 1996 and 1997. As of November 23, 1998, the company has not paid the past due amount.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$500 fine or cancel the pay telephone certificates issued to each company listed on page 5 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should impose a \$500 fine or cancel each company's certificate as listed on page 5 if the fine and the regulatory assessment fees, including statutory penalties and interest, are not received by the Commission within five business days after the conclusion of the 21 day protest period. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the fine and regulatory assessment fees, including statutory penalties and interest, are not received, the pay telephone certificate numbers listed on page 5 should be canceled with an effective date of December 31, 1998. (Isler)

STAFF ANALYSIS: Rule 25-4.0161, Florida Administrative Code, requires the payment of regulatory assessment fees by January 30 of the subsequent year for telecommunications companies, and provides for penalties and interest as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

Staff was notified by the Division of Administration that each of the pay telephone providers listed on page 5 had not paid their 1997 regulatory assessment fees, plus statutory penalties and interest. Therefore, the companies have failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies.

Accordingly, staff recommends that the Commission assess a \$500 fine for failure to comply with the Commission rules or cancel the companies respective certificate numbers if the fine and the regulatory assessment fees, along with statutory penalties and interest, are not paid within five business days after the conclusion of the 21 day protest period. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the fine and regulatory assessment fees, including statutory penalties and interest, are

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not received, the certificate numbers listed on page 5 should be canceled with an effective date of December 31, 1998.

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: Yes, if no person whose substantial interests are affected files a protest within 21 days of the issuance date of the Order, the Order will become final. Upon payment of the fines and fees, or cancellation of the certificate, these dockets should be closed. (Watts)

STAFF ANALYSIS: Whether staff's recommendation on Issue 1 is approved or denied, the result will be a proposed agency action order. If no timely protest to the proposed agency action is filed within 21 days of the date of issuance of the Order, these dockets should be closed upon payment of the fines and fees, or upon cancellation of the certificates. A protest in one docket should not prevent the action in a separate docket from becoming final.

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<u>DOCKET NO.</u>	<u>PROVIDER</u>	<u>CERTIFICATE NO.</u>	<u>RAFs</u>	<u>P and I</u>
981328-TC	Millennium Capital Management, Inc.	4894	1997	1997
981329-TC	Kevin L. Smith d/b/a "Macaroni" Unisex Barber Shop	4675	1997	1997
981330-TC	Robert Browning	4634	1997	1996 1997
981331-TC	Thomas M. Fazio	4627	1996 1997	1996 1997
981332-TC	Kimberly Ann Bona	4623	1996 1997	1996 1997